

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11463 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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GUJARAT AGRO INDUSTRIES CO-OP LTD

Versus

BHUPENDRA B PATEL

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Appearance:

None present for Petitioner

MR DS VASAVADA for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/12/96

ORAL JUDGMENT

Heard learned counsel for the respondent and perused the Special Civil Application.

2. The challenge is made by the petitioner in this petition to the award of the Labour Court, Ahmedabad, in Reference (LCA) No.1199 of 1985 decided on 5.6.93.

3. The respondent-workman was appointed by the

petitioner under its order dated 30th May 1993 as a Site Engineer (Mechanical and Electrical). The respondent-workman was retrenched under the order dated 29th June 1985. The respondent-workman raised industrial dispute which has been referred to the Labour Court by the State Government. Under the award, impugned in this Special Civil Application, the retrenchment of the respondent-workman was declared to be invalid and the award of reinstatement with 50% backwages has been made. Hence this Special Civil Application by the petitioner.

4. The Labour Court, after considering the conditions on which the respondent was given appointment as well as the evidence produced on record has found it to be a case of illegal retrenchment of the workman. In the order of appointment it is a condition that the initial appointment of the respondent will be on consolidated salary for a period of two years. There is a term no doubt that during this period at any time, service of the respondent is likely to be terminated on a month's notice or monthly salary in lieu of the notice period, if his work was not found satisfactory. The other term of appointment is important to which reference has to be made. As per this term, the respondent has to enter into two years' service bond which will also incorporate other service conditions applicable during the two years' tenure and at the end of two years if the performance of the workman is found satisfactory, he may be offered the post in the junior executive cadre in the pay scale of Rs.700-1300 plus other allowances as admissible under the service rules of the petitioner-Corporation. In the order dated 29th June 1985, the petitioner has stated that in terms of clause III of the appointment order, it is not possible to offer the respondent-workman the appointment to the post of junior executive cadre. It is nowhere mentioned in this order that his services were not satisfactory. No reason, good, bad or different is given as to why it was considered to be impossible to offer the respondent-workman the appointment. The respondent-workman has worked for two years with the Corporation on consolidated salary and he has all the expectation that on completion of satisfactory service he will be offered the appointment in the regular pay scale.

5. Taking into consideration the totality of the facts of the case, I do not find any illegality in the award of Labour Court which calls for interference of this Court. Moreover, in pursuance of the award of the Labour Court, the respondent-workman has already been reinstated in the service and nothing has been produced

on record that after joining the service, the Corporation has found his service to be unsatisfactory.

6. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court, stands vacated. No order as to costs.

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(sunil)